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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,694	10/06/2006	Volker Fricke	GB920020081US1	1810
45832	7590	11/12/2008	EXAMINER	
DILLON & YUDELL LLP 8911 N. CAPITAL OF TEXAS HWY., SUITE 2110 AUSTIN, TX 78759			CHAMBERS, TANGELA T	
ART UNIT	PAPER NUMBER			
		2617		
MAIL DATE	DELIVERY MODE			
11/12/2008	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,694	<b>Applicant(s)</b> FRICKE ET AL.
	<b>Examiner</b> TANGELA T. CHAMBERS	<b>Art Unit</b> 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 May 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 and 17-30 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-7 is/are allowed.  
 6) Claim(s) 17-30 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 06 October 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the amendment and arguments filed May 27, 2008.
2. Claims 1-7 have been amended.
3. Claims 8-16 have been canceled.
4. Claims 17-30 have been added.

***Response to Arguments***

5. Applicant's arguments, see amendment filed 05/27/2008, with respect to claims 1-7 and 24-30 have been fully considered and are persuasive. The rejection of claims 1-7 has been withdrawn.

***Allowable Subject Matter***

6. Claims 1-7 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose a data server for transferring log data thereto, wherein the data server constructs a plan for transfer of data for each of a plurality of remote devices according to the amount of data and signal strength and determines a transfer period start and end time based on the transfer size of log data.

Satt et al. (2004/0248583) in view of Gopalakrishnan et al. (2004/0203968) discloses a data transfer server that scheduled transmission of the data to the sever from a plurality of remote devices based on data size. However Satt and Gopala do not teach constructing a transfer period with start and end times for each remote device.

Therefore claims 1-7 are allowed.

***Claim Rejections - 35 USC § 101***

7. Claims 17-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 17-23 do not claim a statutory category of invention because the claims recite "a computer storage medium having a computer program product" that is defined

within the specification as optionally being an transmission media supporting the Internet or Intranet thereby rendering the claim as a nonstatutory category of invention.

Claims 24-30 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 24-30 do not fall into a statutory category because the specification states that the server and the means can be entirely software. Thus the claim is a program per se thus not a statutory category of invention.

### ***Conclusion***

8. The prior art not relied upon but considered pertinent to applicant's disclosure is made of record and listed on form PTO-892.

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TANGELA T. CHAMBERS whose telephone number is 571-270-3168. The examiner can normally be reached Monday through Thursday, 9:00am-6:30pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro, can be reached at 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-270-4168.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tangela T. Chambers/  
Patent Examiner, Art Unit 2617  
November 7, 2008

/NICK CORSARO/  
Supervisory Patent Examiner, Art Unit 2617